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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/603,947	06/25/2003	W. Perry Dowst	1323_001RCE	3129
20874 7590 12/10/2008 MARIAMA MULDOON BLASIAK & SULLIVAN LLP 250 SOUTH CLINTON STREET SUITE 300 SYRACUSE, NY 13202				
EXAMINER				
PRICE, CARL D				
ART UNIT		PAPER NUMBER		
3749				
MAIL DATE		DELIVERY MODE		
12/10/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/603,947

**Applicant(s)**

DOWST ET AL.

**Examiner**

Carl D. Price

**Art Unit**

3749

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09/09/2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 106-160 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 106-160 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-649)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

In view of the Appeal Brief filed on **09/09/2008**, PROSECUTION IS HEREBY REOPENED. New grounds of rejection are set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below:

/Steven B. McAllister/

Supervisory Patent Examiner, Art Unit 3749

### **Response to Arguments**

Applicant's arguments with respect to claims **106-160** have been considered but are moot in view of the new ground(s) of rejection.

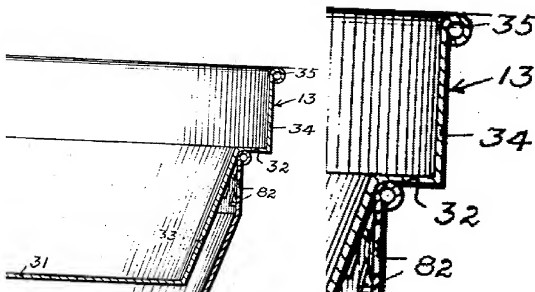
Applicant's arguments filed in the appeal brief submitted on **09/09/2008** have been fully considered but they are not persuasive. Applicant's attention is directed to the following examiner's action and comments made in response to applicant's arguments presented in the appeal brief.

Claims **151-154** and **159** were previously rejected under 35 U.S.C. 102(b) as being anticipated by **US 2154305 (Goerl)**.

With regard to claim 151, applicant argues the following:

“The Examiner has said that the '305 reference ‘shows a portable heating system comprising a vessel (13) having a thermally conductive bottom end defining an external bottom side (31, 32, 33) of the vessel’. The Examiner has thus included not only the surface 31, but also the surfaces 32 and 33 as defining a bottom end when, in fact the elements 32 and 53 are located near the top end of the vessel 13. That is, although elements 32 and 33 may be on a bottom side of the vessel, they are not at the bottom end. Thus, when referring to the vessel 13 of the '305 reference, clearly the surfaces 32 and 33 cannot reasonably be considered to reside at a bottom end of the vessel 13.”

The examiner disagrees with applicant's suggestion that “... although elements 32 and 33 may be on a bottom side of the vessel, they are not at the bottom end. Thus, when referring to the vessel 13 of the '305 reference, clearly the surfaces 32 and 33 cannot reasonably be considered to reside at a bottom end of the vessel 13.” With regard to the vessel bottom end recited in claim 151 the examiner maintains the position that the entirety of the vessel (13) lower surface sections (31, 32, 33) are the structurally and functionally the same as applicant's broadly claimed “a thermally conductive bottom end”. That is, the mere recitation “a thermally conductive bottom end” does not preclude a vessel such as that shown and disclosed in **US 2154305 (Goerl)**, where the end (31, 32, 33) has a non-planar profile. **US 2154305 (Goerl)** nonetheless meets the limitations of applicant's claims since applicant's claim 151 only further requires the bottom end have “an external bottom side for receiving heat” which, in the examiner's opinion is met by at least the bottom end side, or surface, (32). Furthermore, in the same manner intended by applicant's invention, the contoured bottom non-vertical end surface(s) (31, 32, 33) **US 2154305 (Goerl)** are intended to receive heat rising from a burner located there below. That is, because of their inclined (33) and horizontal (31, 32) orientation with respect to the upward flow of heat from the heat source. For the reasons set forth herein above and for the reasons set forth in the examiner's formal rejection of the claims appearing herein below, claim **151** remains rejected under 35 U.S.C. 102(b) as being anticipated by **US 2154305 (Goerl)**.



With regard to claim 151, applicant argues the following:

For the reasons set forth herein above and for the reasons set forth in the examiner's formal rejection of the claims appearing herein below, claim **151** remains rejected under 35 U.S.C. 102(b) as being anticipated by **US 2154305 (Goertl)**.

"Even though the diameter of the lower end rim (55) is less than the diameter of the vessel outlet port (35), it does not follow that the bottom housing 17 can be placed in the vessel cavity in an upright position, since the lower wall portion 33 is conically tapered and would not allow the bottom housing 17 to be placed therein in an upright position. For that reason, the bottom housing 17 is placed within the container 13 in an inverted position as will be seen in Fig. 4.

The examiner disagrees with applicant's supposition that "... it does not follow that the bottom housing 17 can be placed in the vessel cavity in an upright position, since the lower wall portion 33 is conically tapered and would not allow the bottom housing 17 to be placed therein in an upright position. It is first noted that **US 2154305 (Goertl)**, in fact, shows (figure 4) the lower section (17) placed in the vessel (13) in an upright position.

The term "upright" is defined according to the following:

***Upright:***

“II. 3. a. Having the chief axis or distinctive part perpendicular to a surface; set or placed in a vertical position, posture, etc.; pointing or directed upwards; not inclined or leaning over (Cf. 1b.)”

(Oxford English Dictionary, Second Edition 1989)

Therefore, a reasonable broad interpretation of the claim limitation “upright” as used in the claim would mean that the bottom housing need only be oriented perpendicular or vertical with regard to a supporting surface, in this case the bottom housing (17; figure 4) during storage is surface (31). This storage location of the **US 2154305 (Goertl)** supporting surface (17; figure 4) is in fact oriented in an upright position as broadly required by applicant’s claim 152, since it is not inclined.

Secondly, while **US 2154305 (Goertl)** has shown the bottom housing (17; figure 4) in a preferred storage position, it does not follow that the bottom housing is necessarily incapable of or precluded from being positioned otherwise within the housing, since the diameter of the lower end rim (55) of the bottom housing (17) is less than the diameter of vessel outlet port (35) it is capable of being place in the vessel in the broadly manner set forth in the claim. For example, as evidenced by the relatively smaller diameter of bottom housing rim (55) the bottom housing (17) it is capable of being placed in, or stored in, the vessel (13) in an inverted orientation from that which is shown in figure 4. When placed within the vessel in such an inverted (with relative to figure 4) orientation the bottom rim of the bottom housing would therefore rest on the inclined or sloped portion (33) of the vessel. The bottom housing would nonetheless be stored or positioned within the vessel.

For the reasons set forth herein above and for the reasons set froth in the examiner’s formal rejection of the claims appearing herein below, claim **152** remains rejected under 35 U.S.C. 102(b) as being anticipated by **US 2154305 (Goertl)**.

With regard to claims 153 and 154, applicant argues the following:

"Claim 153 recites that the "burner fuel intake port is disposed at a lower end of said bottom housing so as to facilitate the coupling to a fuel source in a position below said bottom housing". In this regard, the Examiner has said that "in regard to claims 153 and 154, the fuel source and burner are formed as a single unit and supported by and at a lower bottom housing location (i.e. below the top rim (49))". Although this is true, the combination of the fuel source and burner are not located in a position below the bottom housing but are rather contained within the bottom housing as will be seen in Fig. 8. Clearly the burner fuel intake port is not coupled to a fuel source in a position below the bottom housing as recited.

In response to applicant's argument that **US 2154305 (Goerl)** does not the burner fuel intake port is not coupled to a fuel source in a position below the bottom housing as recited, applicant's attention is directed to the following examiner's action which now relies on **FR 2 446 097** (of record) which teaches, from applicant's same portable heater field of endeavor, providing portable collapsible heaters with burners of the type having a threaded fuel source connection located in the lower portion thereof for connection to a fuel source there below. In this regard it is the examiner's position, as stated previously with regard to claims **153-158** and **160**, it would have been obvious to a person having ordinary skill in the art to modify **US 2154305 (Goerl)** to include a burners of the type having a threaded fuel source connection located in the lower portion in view of the teaching of **FR 2 446 097**. Stated otherwise, for the purpose of providing a suitable alternative burner and fuel source, it would have been obvious to a person having ordinary skill in the art to substitute for the burner of **US 2154305 (Goerl)** a burner arrangement such as that taught by **FR 2 446 097** which includes a burner fuel source and threaded burner fuel port extending from below and into the bottom housing.

With regard to claims **106-116** rejected under 35 U.S.C. 103(a) as being unpatentable over **US002154305** (of record) in view of **GB000882881** (newly cited).

Applicant argues the following:

"Even assuming, arguendo, that the Horner reference were determined to be in the "same portable heater field of endeavor", one skilled in the art of field cooking kits is not likely to refer to the art of tea kettles in order to improve his product. Further, there is nothing in either of the two references which would suggest the combination of the

features with the other reference to obtain the appellant's invention as suggested by the Examiner.”

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, both **US002154305** and **GB000882881** are from the same vessel heating field of endeavor. Notwithstanding the potential uses or applications for a heating vessel of the type disclosed **GB000882881 (Horner)** is at least from the applicant's same heated vessel field of endeavor, and addresses the same problem of enhancing the transfer of heat from sources not unlike that intended by applicant. Indeed, **GB000882881 (Horner)** discloses “The present invention relates to heating appliances such as kettles, saucepans, frying pans and the like...” and heating the vessel by “... a gas flame or by a flame from an oil or spirit burner” and where vessel construction is intended to provide “improved means for distributing the heat of the flame or gases over the base of the appliance”. The examiner therefore maintains the position that **GB000882881 (Horner)** therefore provides both a suggestion and motivation to one of ordinary skill in the art at the time of the invention to combine the teachings of the references.

Applicant further argues the following:

“It should be recognized that the '305 patent has been publicly available since 1939 and that the '881 has been publicly available since 1961. If the combination of the features of these two references were obvious to one skilled in the art, why has no one else (i.e. other than the present inventors), made such a combination in the last 45 years?”

In response to applicant's argument based upon the age of the references, contentions that the reference patents are old are not impressive absent a showing that the art tried and failed to solve the same problem notwithstanding its presumed knowledge of the references. See *In re Wright*, 569 F.2d 1124, 193 USPQ 332 (CCPA 1977). **GB000882881 (Horner)** provides both a



suggestion and motivation to one of ordinary skill in the art at the time of the invention to combine the teachings of the references.

**Claim Rejections - 35 USC § 112**

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

**Claims 151-160** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

**Claim 151** recites the limitation "the external bottom end" in lines 6-7. There is insufficient antecedent basis for this limitation in the claim.

**Claim 152** recites the limitation "its top rim" in lines 3. There is insufficient antecedent basis for this limitation in the claim, since the claim includes two previously recitations of "top rim".

**Claim 152** is vague and indefinite. Since the claim lacks any shape or form associated with the bottom housing "top rim" which would necessarily provide a standard for ascertaining the meaning of the bottom housing "top rim" being oriented such that it is "facing" said vessel top end. Therefore, one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

**Claim 153** recites the limitation "said burner fuel tank port" in lines 1-2. There is insufficient antecedent basis for this limitation in the claim.

**Claim Rejections - 35 USC § 102**

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**Claims Rejected under 35 U.S.C. 102(b)**

Claims 151 and 152 are rejected under 35 U.S.C. 102(b) as being anticipated by US

**2154305 (Goerl).**

**US 2154305 (Goerl)** shows a portable heating system comprising:

- a vessel (13) having a thermally conductive bottom end defining an external bottom side (31, 32, 33) of the vessel;
- a top housing (16) having a top rim (53) coupled circumferentially to the external bottom end of the vessel (at 32, 53), a side structure (54) extending downwardly from the top rim (53) and having a plurality of exhaust vents (82) formed therein, and a bottom rim (48, 51);
- a bottom housing (17) having a top rim (49, 52) configured to be selectively coupled to the top housing bottom rim (48) and containing a burner (15) having a heat outlet head disposed below the external bottom side of the vessel when the bottom housing is coupled to the top housing (see figure 8), the bottom housing further having a plurality of air inlet vents (81) formed therein;
- wherein the bottom housing is so configured and sized as to be removable from said top housing and temporarily placed for storage in the vessel cavity (see figure 4).
- In regard to claim 152, since the diameter of the lower end rim (55) of the bottom housing (17) is less than the diameter of vessel outlet port (35) it is capable of being place in the vessel in the manner set forth in the claim.
- In regard to claims 153 and 154, the fuel source and burner are formed as a single unit and supported by and at a lower bottom housing location (i.e. -below the top rim (49)).

**Claim Rejections - 35 USC § 103**

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

**Claims Rejected under 35 U.S.C. 103(a)**

Claims **106-116** are rejected under 35 U.S.C. 103(a) as being unpatentable over **US002154305** (of record) in view of **GB000882881** (of record).

**US002154305** shows a portable heating system comprising:

- a vessel (13) having a thermally conductive bottom end defining an external bottom side (31, 32, 33) of the vessel;
- a top housing (16) having a top rim (53) coupled circumferentially to the external bottom side of the vessel (at 32, 53), a side structure (54) extending downwardly from the top rim (53) and having a plurality of exhaust vents (82) formed therein, and a bottom rim (48, 51);
- a bottom housing (17) having a top rim (49, 52) configured to be selectively coupled to the top housing bottom rim (48) and containing a burner (15) having a heat outlet head disposed below the external bottom side of the vessel when the bottom housing is coupled to the top housing (see figure 8), the bottom housing further having a plurality of air inlet vents (81) formed therein

**US002154305** shows and discloses the invention substantially as set forth in the claims with possible exception to:

- a single thermally conductive member (15) along the entire extent of a peripheral edge of the external bottom side. The member comprising a continuous piece of aluminum material soldered to and positioned adjacent to and extending continuously over the bottom of a vessel (see page 2, lines 100-105).

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April 11, 1939.

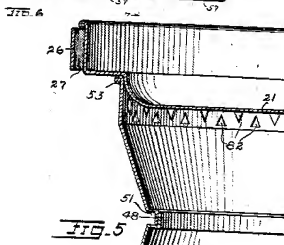
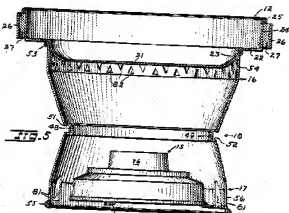
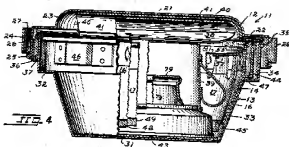
C. P. GOERL

COOKING KIT

Filed March 9, 1936

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3 Sheets-Sheet 2



April 11, 1939.

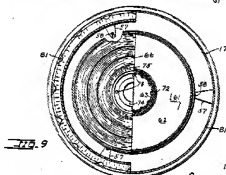
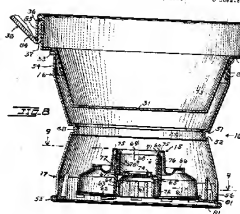
C. P. GOERL

COOKING KIT

Filed March 9, 1936

2,154,305

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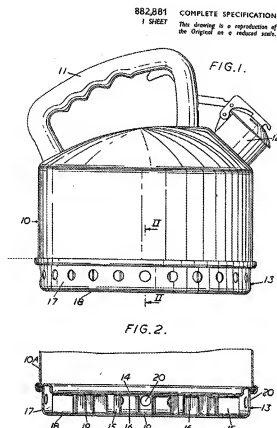


INVENTOR  
CONRAD P. GOERL  
By \_\_\_\_\_, Att. in \_\_\_\_\_

GB000882881 teaches, from applicant's same vessel heating field of endeavor, placing a single thermally conductive member (15) along the entire extent of a peripheral edge of the external bottom side. The member comprising a continuous piece of aluminum material soldered

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to and positioned adjacent to and extending continuously over the bottom of a vessel (see page 2, lines 100-105).



In regard to claims **106 -116**, for the purpose of making the base readily separable from the base and the base is storable within the vessel and to increase the thermal heat efficiency by confining the flow to heat about the vessel bottom, it would have been obvious to a person having ordinary skill in the art to modify **US002154305** to include a single thermally conductive member (15) along the entire extent of a peripheral edge of the external bottom side in the manner set forth in applicant's claims, in view of the teaching of **GB000882881**.

In regard to claims **111-116**, since shape of the protrusions the manner of coupling (e.g. – soldering, brazing, gluing, etc.), the height of the vessel, length of the protrusions, aspect ratio of the protrusions, etc. would depend on numerous design concerns such as the overall size and

shape of both the burner and vessel, the type of substance being heat, the amount of heat intended to be transferred to the substance through the vessel wall, etc., to configure the protrusions to have dimensions and to be attached in the manner set forth in the claims, can be viewed as nothing more than merely a matter of choice in design absent the showing of any new or unexpected results produced there from over the prior art of record. Further in this regard it is noted that **GB000882881** itself teaches that elements, such as apertures 20, are of such a size “that the maximum amount of heat is absorbed by the strip 15 which is secured in intimate heat-conducting relationship with the base of the kettle” (beginning page 2, line15).

**Claims Rejected under 35 U.S.C. 103(a)**

Claims **117-149** are rejected under 35 U.S.C. 103(a) as being unpatentable over **US002154305** (of record) in view of **GB000882881** (newly cited) and **DE 33 39 848** (of record).

**US002154305** shows a portable heating system comprising:

- a vessel (13) having a thermally conductive bottom end defining an external bottom side (31, 32, 33) of the vessel;
- a top housing (16) having a top rim (53) coupled circumferentially to the external bottom side of the vessel (at 32, 53), a side structure (54) extending downwardly from the top rim (53) and having a plurality of exhaust vents (82) formed therein, and a bottom rim (48, 51);
- a bottom housing (17) having a top rim (49, 52) configured to be selectively coupled to the top housing bottom rim (48) and containing a burner (15) having a heat outlet head disposed below the external bottom side of the vessel when the bottom housing is coupled to the top housing (see figure 8), the bottom housing further having a plurality of air inlet vents (81) formed therein.

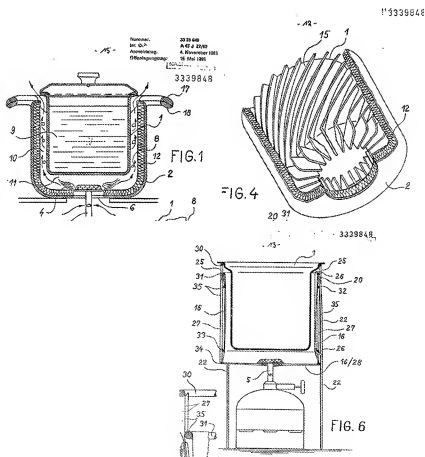
**US002154305** shows and discloses the invention substantially as set forth in the claims with possible exception to:

- a single thermally conductive member (15) along the entire extent of a peripheral edge of the external bottom side. The member comprising a continuous piece of aluminum material soldered to and positioned adjacent to and extending continuously over the bottom of a vessel (see page 2, lines 100-105).

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**GB000882881** teaches, from applicant's same portable heater field of endeavor, placing a single thermally conductive member (15) along the entire extent of a peripheral edge of the external bottom side. The member comprising a continuous piece of aluminum material soldered to and positioned adjacent to and extending continuously over the bottom of a vessel (see page 2, lines 100-105).

**DE 33 39 848** teaches (figures 1 and 2), from applicant's same portable heater field of endeavor dimension the outer burner diameter to be less than the diameter of the inner central cavity formed by the thermally conductive members, for the purpose of effectively directing heat from the burner flames into and along the heat transfer passages.



In regard to claims **117-149**, for the purpose of making the base readily separable from the base and the base is storable within the vessel and to increase the thermal heat efficiency by confining the flow to heat about the vessel bottom, it would have been obvious to a person having ordinary skill in the art to modify **US002154305** to include a single thermally conductive member (15) along the entire extent of a peripheral edge of the external bottom side in the manner set forth in applicant's claims, in view of the teaching of **GB000882881**. Furthermore, in regard to claims **117-149**, for the purpose of effectively directing heat from the burner flames into and along the heat transfer passages, it would have been obvious to a person having ordinary skill in the art to dimension the outer burner diameter to be less than the diameter of the inner central cavity formed by the thermally conductive members, in view of the teaching of **DE 33 39 848**.

In regard to claims **122-128, 134-139** and **145-149**, since shape of the protrusions the manner of coupling (e.g. – soldering, brazing, gluing, etc.), the height of the vessel, length of the protrusions, aspect ratio of the protrusions, etc. would depend on numerous design concerns such as the overall size and shape of both the burner and vessel, the type of substance being heat, the amount of heat intended to be transferred to the substance through the vessel wall, etc., to configure the protrusions to have dimensions and to be attached in the manner set forth in the claims, can be viewed as nothing more than merely a matter of choice in design absent the showing of any new or unexpected results produced there from over the prior art of record. Further in this regard it is noted that **GB000882881** teaches that elements, such as apertures 20, are of such a size “that the maximum amount of heat is absorbed by the strip 15 which is secured in intimate heat-conducting relationship with the base of the kettle” (beginning page 2, line15).

**Claims Rejected under 35 U.S.C. 103**

**Claims 153-160** are rejected under 35 U.S.C. 103(a) as being unpatentable over **US002154305** (of record) in view of **FR 2 446 097** (of record).

**US002154305** shows and discloses the invention substantially as set forth in the claims with possible exception to:



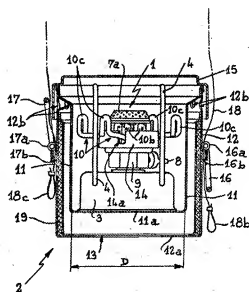
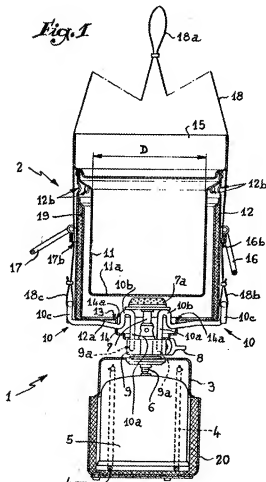
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- an igniter portion disposed above the burner and a recess or indentation in the cover (15) for receiving or accommodate the extending igniter portion; and
- friction or slot and dimple attachment means for the upper and lower housings.

**FR 2 446 097** teaches, from applicant's same portable heater field of endeavor, providing portable collapsible heaters with burners of the type having a threaded fuel source connection located in the lower portion thereof for connection to a fuel source there below.

Pl. I- 4

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*Fig. 5*

In regard to claim **153-160**, for the purpose of providing a suitable alternative burner and fuel source, it would have been obvious to a person having ordinary skill in the art to modify **US 2154305 (Goerl)** to include a burners of the type having a threaded fuel source connection located in the lower portion, in view of the teaching of **FR 2 446 097**. That is, for the purpose of providing a suitable alternative burner and fuel source, it would have been obvious to a person having ordinary skill in the art to substitute for the burner of **US 2154305 (Goerl)** a burner arrangement such as that taught by **FR 2 446 097** which includes a burner fuel source and threaded burner fuel port extending from below and into the bottom housing.

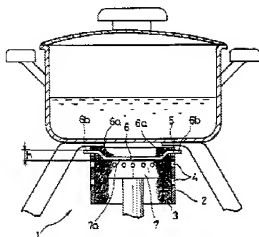
Also, Official Notice is taken that it is well known to place igniters above, that is, downstream of fuel exiting burner heads as a recognized optimal location to effect ignition of the fuel (see **FR 2 816 395** (of record)). Thus, in view of that which is well known, it would have been obvious to a person having ordinary skill in the art to provide **US 2154305 (Goerl)** with such an igniter arrangement. Regarding any necessary recess or indentation in the cover for receiving or accommodate the extending igniter portion it is noted that the covers (23, 39, 40, and 41) of **US 2154305 (Goerl)** is formed with such a recess capable of performing this function. In regard to claims **159** and **160**, Official Notice is taken that burner components are known to be secured by slot and dimple attachment means for (see for example **US004374489**). Thus, it would have been obvious to a person having ordinary skill in the art to modify attachment of the upper and lower housings in **US 2154305 (Goerl)** to include such well known securing and fastening arrangement.

#### **Conclusion**

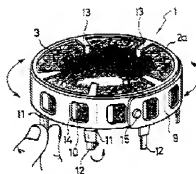
See the attached PTO FORM for prior art made of record that is not relied upon, which is considered pertinent to applicant's disclosure.

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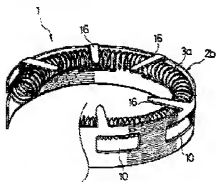
【図3】



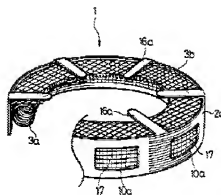
【図5】



【図6】



【図8】



【図9】

**USPTO CUSTOMER CONTACT INFORMATION**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carl D. Price whose telephone number is (571) 272-4880. The examiner can normally be reached on Monday through Friday between 9:00am-5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steven B. McAllister can be reached on (571) 272-6785. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Carl D. Price/

Primary Examiner, Art Unit 3749

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